

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, LEAGUE OF WOMEN
VOTERS OF PENNSYLVANIA,
PHILADELPHIANS ORGANIZED TO
WITNESS, EMPOWER AND REBUILD,
COMMON CAUSE PENNSYLVANIA,
BLACK POLITICAL EMPOWERMENT
PROJECT, MAKE THE ROAD
PENNSYLVANIA, MARLENE G.
GUTIERREZ, BARRY M. SEASTEAD,
AYNNE MARGARET PLEBAN
POLINSKI, LAURENCE M. SMITH, JOEL
BENCAN,

Plaintiffs,

vs.

AL SCHMIDT, IN HIS OFFICIAL
CAPACITY AS ACTING SECRETARY OF
THE COMMONWEALTH, ADAMS
COUNTY BOARD OF ELECTIONS,
ALLEGHENY COUNTY BOARD OF
ELECTIONS, ARMSTRONG COUNTY
BOARD OF ELECTIONS, BEAVER
COUNTY BOARD OF ELECTIONS,
BEDFORD COUNTY BOARD OF
ELECTIONS, BERKS COUNTY BOARD
OF ELECTIONS, BRADFORD COUNTY
BOARD OF ELECTIONS, BLAIR
COUNTY BOARD OF ELECTIONS,
BUCKS COUNTY BOARD OF
ELECTIONS, BUTLER COUNTY BOARD
OF ELECTIONS, CAMBRIA COUNTY
BOARD OF ELECTIONS, CAMERON
COUNTY BOARD OF ELECTIONS,
CARBON COUNTY BOARD OF
ELECTIONS, CENTRE COUNTY BOARD
OF ELECTIONS, CHESTER COUNTY
BOARD OF ELECTIONS, CLARION
COUNTY BOARD OF ELECTIONS,

CASE NO. 1:22-CV-00339

**HON. SUSAN PARADISE BAXTER
UNITED STATES DISTRICT JUDGE**

CLEARFIELD COUNTY BOARD OF
ELECTIONS, CLINTON COUNTY
BOARD OF ELECTIONS, COLUMBIA
COUNTY BOARD OF ELECTIONS,
CRAWFORD COUNTY BOARD OF
ELECTIONS, CUMBERLAND COUNTY
BOARD OF ELECTIONS, DAUPHIN
COUNTY BOARD OF ELECTIONS,
DELAWARE COUNTY BOARD OF
ELECTIONS, ELK COUNTY BOARD OF
ELECTIONS, ERIE COUNTY BOARD OF
ELECTIONS, FAYETTE COUNTY
BOARD OF ELECTIONS, FOREST
COUNTY BOARD OF ELECTIONS,
FRANKLIN COUNTY BOARD OF
ELECTIONS, FULTON COUNTY BOARD
OF ELECTIONS, GREENE COUNTY
BOARD OF ELECTIONS, HUNTINGDON
COUNTY BOARD OF ELECTIONS,
INDIANA COUNTY BOARD OF
ELECTIONS, JEFFERSON COUNTY
BOARD OF ELECTIONS, JUNIATA
COUNTY BOARD OF ELECTIONS,
LACKAWANNA COUNTY BOARD OF
ELECTIONS, LANCASTER COUNTY
BOARD OF ELECTIONS, LAWRENCE
COUNTY BOARD OF ELECTIONS,
LEBANON COUNTY BOARD OF
ELECTIONS, LEHIGH COUNTY BOARD
OF ELECTIONS, LUZERNE COUNTY
BOARD OF ELECTIONS, LYCOMING
COUNTY BOARD OF ELECTIONS,
MCKEAN COUNTY BOARD OF
ELECTIONS, MERCER COUNTY BOARD
OF ELECTIONS, MIFFLIN COUNTY
BOARD OF ELECTIONS, MONROE
COUNTY BOARD OF ELECTIONS,
MONTGOMERY COUNTY BOARD OF
ELECTIONS, MONTOUR COUNTY
BOARD OF ELECTIONS,
NORTHAMPTON COUNTY BOARD OF
ELECTIONS, NORTHUMBERLAND
COUNTY BOARD OF ELECTIONS,
PERRY COUNTY BOARD OF
ELECTIONS, PHILADELPHIA COUNTY
BOARD OF ELECTIONS, PIKE COUNTY

BOARD OF ELECTIONS, POTTER)
COUNTY BOARD OF ELECTIONS,)
SCHUYLKILL COUNTY BOARD OF)
ELECTIONS, SNYDER COUNTY BOARD)
OF ELECTIONS, SOMERSET COUNTY)
BOARD OF ELECTIONS, SULLIVAN)
COUNTY BOARD OF ELECTIONS,)
SUSQUEHANNA COUNTY BOARD OF)
ELECTIONS, TIOGA COUNTY BOARD)
OF ELECTIONS, UNION COUNTY)
BOARD OF ELECTIONS, VENANGO)
COUNTY BOARD OF ELECTIONS,)
WARREN COUNTY BOARD OF)
ELECTIONS, WASHINGTON COUNTY)
BOARD OF ELECTIONS, WAYNE)
COUNTY BOARD OF ELECTIONS,)
WESTMORELAND COUNTY BOARD OF)
ELECTIONS, WYOMING COUNTY)
BOARD OF ELECTIONS, YORK)
COUNTY BOARD OF ELECTIONS,)
Defendants.)

O R D E R

AND NOW, this 21st day of November 2023;

IT IS HEREBY ORDERED that the following fifty-five county boards of elections be dismissed from this action as no Plaintiff has established standing against them: Adams County, Armstrong County, Beaver County, Bedford County, Blair County, Bradford County, Butler County, Cambria County, Cameron County, Carbon County, Centre County, Chester County, Clarion County, Clearfield County, Clinton County, Columbia County, Crawford County, Cumberland County, Dauphin County, Delaware County, Elk County, Erie County, Fayette County, Forest County, Franklin County, Fulton County, Greene County, Huntingdon County, Indiana County, Jefferson County, Juniata County, Lackawanna County, Lawrence County, Lebanon County, Luzerne County, Lycoming County, McKean County, Mercer County, Mifflin

County, Monroe County, Montour County, Northumberland County, Perry County, Pike County, Potter County, Schuylkill County, Snyder County, Somerset County, Sullivan County, Susquehanna County, Tioga County, Union County, Venango County, Wayne County, and Wyoming County. The Clerk of Court shall terminate these Defendants as parties to this action. And it is further

ORDERED that the motion for summary judgment filed by Plaintiffs [ECF No. 274] is granted in part and denied in part. The motion is granted insofar as:

- Defendant Warren County Board of Elections is hereby directed to open the November 2022 mail ballot envelope with the barcode associated with Barry Seastead, canvass the ballot contained therein, and amend the official vote counts to include his ballot;
- Defendant York County Board of Elections is hereby directed to open the November 2022 mail ballot envelopes with the barcodes associated with Aynne Margaret Pleban Polinski and Marlene Gutierrez, canvass the ballots contained therein, and amend the official vote counts to include their ballots; and
- Defendant Montgomery County Board of Elections is hereby directed to open the November 2022 mail ballot envelopes with the barcodes associated with Laurence Smith and Joel Bencan, canvass the ballots contained therein, and amend the official vote counts to include their ballots.

And it is further

ORDERED that a declaratory judgment is entered in favor of Plaintiffs declaring that both (1) the rejection of timely submitted mail ballots based solely on the failure of a voter to write a date at all next to the voter's signature on the return envelope; and (2) the rejection of timely submitted mail ballots based solely on a determination that the date written by a voter on the return envelope was "incorrect" violates the Materiality Provision of the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B). And it is further

ORDERED that the Secretary is permanently enjoined from directing all county boards of elections of the Commonwealth to segregate, reject, exclude, or in any way not count timely received mail ballots based on a voter's error or omission in relation to the date on the voter declaration on the mail ballot return envelope. And it is further

ORDERED that Plaintiffs' claim under the Equal Protection Clause of the Fourteenth Amendment is dismissed. And it is further

ORDERED that the motion for summary judgment filed by Defendant Lancaster County Board of Elections [ECF No. 267] is granted in part and denied in part. The motion is partially granted in regard to standing: the only Plaintiff who has standing against the Lancaster County Board is the League of Women Voters. All other claims by Plaintiffs against this Defendant are dismissed. The motion is denied in all other respects. And it is further

ORDERED that the motion for summary judgment filed by Defendant Berks County Board of Elections [ECF No. 269] is granted in part and denied in part. The motion is partially granted in regard to standing: the only Plaintiffs who have standing against the Berks County Board are NAACP and League of Women Voters. All other claims by Plaintiffs against this Defendant are dismissed. The motion is denied in all other respects. And it is further

ORDERED that the motion for summary judgment filed by Intervenor Defendants RNC [ECF No. 270] is denied.

The Clerk is directed to mark this case closed.

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with the first name "Susan" being the most prominent.

SUSAN PARADISE BAXTER
United States District Judge